

Executive Registry

75-7389/3

21 JUL 1975

DCI/IC-75-0654

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Additional Comments on Recommendations
of the Murphy Commission

1. Attached for your signature is a letter to the President (TAB A) providing a second response to the NSC memorandum of July 11, 1975, which advised the President wished to receive comments on the recommendations of the Murphy Commission. Unclassified replies were requested, if possible. We did not request an extension, but the original deadline of 21 July was extended to 30 July.
2. You responded earlier to the ten recommendations in Chapter 7, "Intelligence," deadline for which was 17 July.
3. The enclosure to the letter at TAB A deals with both the 16 recommendations for which your comments were specifically requested, plus 7 other recommendations on which it was considered your views should be indicated.
4. The offices with primary responsibility for preparing the responses were:

	<u>NSC Requested</u>	<u>Additions</u>
IC	1, 27, 28, 29, 69, 88, 89	
DDI	23	24
DDO	66, 72, 73, 76	71 (w/DDI)
DDA	67, 68, 162	
OLC		169, 173, 180 181, 182
A/DCI (Thuermer)	56	

5. The OLC additions resulted from your request for comments on the need for secrecy legislation (Recommendation 173) and from a review of all the recommendations in Chapter 13, "Congressional-Executive Relations," and Chapter 14, "Congressional Organization and Procedures."

6. The following offices reviewed particular chapters and decided no further comment on your part was necessary:

By DDI:

Chapter 5, "International Economic Policy"

By IC:

Chapter 6, "Defense Policy" (Concern was with a possible relation to IRAC activities.)

By O/Comptroller:

Chapter 11, "Budgeting and Foreign Affairs"

By DDO:

Chapter 12, "Personnel for Foreign Affairs"

7. Since the comments on specific recommendations are unclassified, a separate classified letter (TAB B) was prepared outlining your views on the importance of cover to Agency operations overseas and the problems associated therewith. Material for this letter was provided by [redacted] The Murphy Commission was briefed on this topic, but the unclassified report makes no mention of cover.

STAT

[redacted]
Samuel V. Wilson
Lieutenant General, USA
Deputy to the DCI for the
Intelligence Community

Attachments:
as stated

(Coordination on Page 3)

DCI/IC-75-0654

SUBJECT: Additional Comments on Recommendations of the
Murphy Commission

COORDINATION:

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DDA

DDI

Act DDO

for DDS

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21 July 75

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18 July 1975

21 July 75

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(18 Jul 75)

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

DCI/IC 75-2777

29 July 1975

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Enclosed are my comments, as requested by NSC memorandum of July 11, 1975, on certain recommendations of the Commission on the Organization of the Government for the Conduct of Foreign Policy (The Murphy Commission).

My reactions to the ten recommendations in Chapter 7, "Intelligence," were provided on 17 July. The enclosed includes my views on those sixteen recommendations in other portions of the report on which CIA comments were specifically requested, plus comments on seven additional recommendations (24, 71, 169, 173, 180, 181, and 182) on which I considered my views might be useful.

The enclosed comments are unclassified, as was requested, but because of my interest in a particular aspect of the material covered by the Murphy Commission in Chapter 12, "Personnel for Foreign Affairs," I am forwarding a classified statement by separate letter.

Respectfully,


W. E. Colby
Director

Enclosure:
as stated



RECOMMENDATION (1)

The defining characteristic of these tasks (of a Presidential staff) is that they embody staff responsibilities rather than line authority. They provide assistance to the President, not direction to departmental officials other than to convey Presidential instructions. There should be only one official with line responsibility in the White House, and that is the President himself.

I concur. This is precisely the concept within which I currently conduct my relationship with the White House Presidential staffs.

RECOMMENDATION (23)

The Commission proposes that the Office of Export Administration in the Commerce Department be designated a central point of contact between the private sector and the government for the licensing and surveillance of trade and investment with Communist countries. Policy guidance for that office should be centralized in the Board of East-West Foreign Trade authorized by the Trade Act of 1974, and consisting of Cabinet-level officials from each of the departments involved in export regulation. The Board should be backed up by a working group of officials from the same agencies.

The Commerce Department is the logical point of contact between the private sector and the government. The Office of Export Administration, however, will have to be properly staffed to perform all the functions recommended since it currently deals only with licensing. The East-West Foreign Trade Board and its working group already provide policy guidance in East-West trade matters.

RECOMMENDATION (24)

Representatives of the academic and business communities should be formed into technical advisory committees to assist the Board in gauging existing foreign availability of proposed U.S. exports, monitoring new technological developments and establishing procedures for evaluating the success or failure to export control process itself.

Existing technical advisory committees composed of industry and government specialists presently perform these functions. The addition of members of the academic community may be useful. Consideration might be given to retaining government specialists along with the academic and business representatives to help ensure relevance and objectivity of such committees.

RECOMMENDATION (27)

After a WSAG-level crisis, a crisis review group should assess the government's performance and, where appropriate, review and reconsider contingency plans.

I agree. Actually, in most crises involving WSAG an intelligence post mortem is conducted--the exceptions being those crises which turned out to be of little consequence and of short duration. The intelligence post mortems examine how the Community performed and what steps might be taken to improve future performance. I believe--along with the Commission--that a post mortem of the entire crisis management process, and not just the intelligence performance, would also have value in those cases of major and prolonged crises. We in the Intelligence Community have certainly found the post mortem process a valuable tool in evaluating our work and in designing ways to improve it.

RECOMMENDATION (28)

Establishment of a National Security Review Committee (NSRC) to conduct a broad review, under the direction of the National Security Council principals, of the U.S. worldwide national security posture at the beginning of every new Administration. The review should involve the newly appointed senior officials and draw upon the views of the relevant departments. It should be directed by the President and his National Security Assistant.

I see considerable merit in the concept of a National Security Review Committee with membership as desired by the President, and would be prepared to provide such intelligence inputs as would be of use to a NSRC in its worldwide review of the U.S. national security posture.

RECOMMENDATION (29)

The President establish an Advisory Board on National Defense, composed of private citizens who are well equipped by training and experience to bring to bear on defense questions the views of American society, and to facilitate the communication of defense needs to the public. The Board should be provided with a small independent staff.

The possible need for an Advisory Board on National Defense is not a matter within my official purview, but I consider that such a group, with members of established reputation from outside the Government, could assist in clarifying the issues and in promoting public understanding of critical defense needs.

RECOMMENDATION (56)

The executive branch foreign affairs agencies should seek adequate funding for the specific purpose of developing more comprehensive public affairs programs.

The CIA policy on release of information is to respond as fully as we properly can to inquiries about our affairs. In a recent two-year period we briefed more than 16,000 persons. This figure does not include in-depth briefings on foreign situations given to numerous newsmen.

I do not consider my program requires expansion and plan to continue it at about the level of the past year unless otherwise directed. Continuation of this program as presently envisaged would not require any additional funding.

RECOMMENDATION (66)

It should become accepted and standard operating procedure that communications to and from all Embassy personnel of all agencies be available to the Ambassador, either in advance or after dispatch, at his discretion.

I do not concur in this recommendation. The Commission itself preceded it by a parenthetical phrase "(An exception is intelligence information relating to sources and methods)." CIA installations already make available to Ambassadors the intelligence information reports collected locally about the country in question for his comment if desired, but CIA officials are instructed that he is not to censor independent intelligence reporting to Washington.

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RECOMMENDATION (68)

The Under Secretary of State for Management should be assigned direct authority for communications, including Foreign Service reporting, and should establish a staff to carry out this responsibility. This staff should take the lead--with collaboration of the Bureau of Intelligence and Research (INR), the Regional Bureaus, the Foreign Affairs Institute (FAI), the Executive Secretariat--in making the Embassy communications system and particularly Foreign Service reporting more effective in scope, content and form. In so doing it will need to make systematic studies of needs of the many disparate users--starting with the President and Secretary--of Foreign Service reporting, and communications generally, and to devise ways for fulfilling those needs.

The intent of this recommendation is unclear. It appears to confuse two different subjects: management of the technical/administrative aspects of telecommunications transmission facilities and the substantive aspects of Foreign Service reporting. We have already addressed the telecommunications issues in response to previous recommendations, and I do not concur in this aspect of the recommendation.

I concur with the desirability for improving the scope, content, form and overall effectiveness of Foreign Service reporting. During recent months the Intelligence Community has initiated actions to improve management of Foreign Service reporting. These include: systematic national-level assessments of the total reporting from individual overseas posts; mechanisms to enhance substantive communications and interface between the national-level analyst and Foreign Service reporting officer in the field; and improved briefing and orientation of Foreign Service officers on national intelligence needs and reporting management.

RECOMMENDATION (69)

INR should work actively with such a Foreign Service Reporting Staff, to relate Foreign Service reporting effectively to the needs of the intelligence community, and should be staffed adequately to fulfill this role.

I concur in part, since I agree that INR should work actively with any Department of State staff element charged with improving the effectiveness of Foreign Service reporting.

NSCID No. 2 assigns the Department of State primary responsibility, as a service of common concern, for the collection abroad of political, sociological, economic, scientific and technical information. In my view, attention needs to be given both to improving Foreign Service reporting and to clarifying the location within the department of responsibility for coordination of its collection activities.

The USIB Human Sources Committee already is well embarked on a program intended to enhance the responsiveness of all human source reporting, including that of the Foreign Service, to the intelligence needs of the Government. Any activities undertaken within the Department of State to improve Foreign Service reporting should provide for an interface with the Intelligence Community.

RECOMMENDATION (71)

At many posts abroad, political and economic sections in the Embassies should be merged. Integrated, comprehensive reporting and assessment which considers economic and political issues in their close relationships are what we believe will be most needed; a combined section would enhance the likelihood of it being produced. It would also help to encourage FSO's serving abroad to pay more attention to the economic aspects of our bilateral relations.

I agree that integrated, comprehensive reporting of economic and political issues is a desirable goal. I recognize and have made clear to CIA personnel that we collectively must respond to our nation's needs for effective reporting in both fields, which are increasingly interdependent.

At the same time, I would underscore the need to maintain the specialized skills required for successful reporting in either of these disciplines. If the Embassy political and economic sections were to be merged, some mechanism might have to be established to ensure enriched reporting from both fields--not the swamping of one by the other.

RECOMMENDATION (72)

The Ambassador should have a full opportunity to comment on any change in the staff complements of each agency at his post, and his word should carry great weight even if it is not the determining factor.

Ambassadors already have, in very specific terms, the authority and the opportunity to comment on changes in post complement. It has been my experience that ambassadors exercise their authority as they consider appropriate to the circumstances. I think that should continue to be the case.

RECOMMENDATION (73)

The Department of State should provide managerial and administrative services for the entire mission.

The Department of State, to a large extent, already provides administrative services for the entire mission. Some managerial and administrative services, which could impinge upon the authority of a department or agency head to manage his own functions and personnel, should not be supplied by the Department of State, but should be left to the responsible agency. Others, including those in support of intelligence operations, require special knowledge and techniques which the Department of State is not equipped to provide.

RECOMMENDATION (76)

The Office of the Inspector General of Foreign Affairs, be mandated to inspect the overseas activities of all U.S. agencies associated with Embassies and Consulates, in addition to those of the Department of State.

I believe the present arrangements provide for sufficient interface between the CIA station and the Inspector General of Foreign Affairs.

RECOMMENDATION (88)

A "Global Systems Critical List of Problems and Opportunities" be authorized by act of Congress to be prepared by an organization such as the National Academy of Sciences.

While fully sympathetic with the desirability of careful forward planning, I have some doubts as to the likely value of such a list. The normal program and budget process will, in the future, call for five-year projections, and there are existing staffs and mechanisms for forward projections (e.g., National Estimates, Policy Planning Staff, etc.). I fear that a formal listing would become somewhat rigid and artificial and not accomplish the laudable objective sought.

RECOMMENDATION (89)

The President should create a Council of International Planning (CIP), modeled in structure on the Council of Economic Advisers (CEA), to serve him directly and in a manner of his choosing in the planning of foreign policy.

I would be prepared to support fully whatever mechanism the President establishes to assist him in planning foreign policy.

RECOMMENDATION (162)

The FSI program should be expanded to handle the principal language and foreign affairs training for all agencies. Its name should be changed to Foreign Affairs Institute (FAI) to recognize the broader mission.

I do not concur in the proposal that the FSI expand its program to handle principal language and foreign affairs training for all agencies, if the intent is that other agencies will be prohibited from using their own resources. FSI scheduling arrangements and course content frequently have not met our requirements. Also, under the present administrative procedures, CIA personnel are always identified as Agency personnel when attending Foreign Service Institute courses. This has obvious disadvantages for the training of those individuals whom we do not wish to have so identified.

RECOMMENDATION (169)

The Congress should adopt, by concurrent resolution, a statement that a national commitment--meaning a promise to assist a foreign country, government or people by the use of the armed forces or financial resources of the United States, either immediately or upon the happening of certain events--results only from affirmative action taken by the Legislative and Executive Branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

The rationale underlying this recommendation relates to those matters for which the Congress shares constitutional responsibility. The Commission recognizes that in the future, as in the past, the Executive Branch must conduct United States relations with other countries and that the President in fulfilling his constitutional responsibilities must have the flexibility to meet international demands of increasing complexity.

I believe that liaison agreements with foreign services for intelligence purposes is an executive function outside the scope of the constitutional responsibility of the Congress. The underlying quid pro quo to support such arrangements does not appear to constitute a "national commitment" as contemplated by the recommendation. However, the definition of "national commitment" (to assist a foreign government by use of financial resources of the United States) could be construed to apply to such intelligence liaison agreements. If so construed, the requirement of public action (treaty, statute or resolution) could not be accommodated without violating commitments of confidentiality, which are underlying pre-conditions for intelligence liaison agreements. Such ambiguity in language could be clarified in the associated legislative history of the proposed concurrent resolution concerning "national commitments."

RECOMMENDATION (173)

We propose that the Congress consider legislation establishing a comprehensive system for classification based on the following guidelines:

- a. The mandatory classification, in one of several degrees of classification, of specified types of information relating principally to the national defense and the sources and methods of intelligence.
- b. The mandatory exemption from classification of other specified types of information, relating principally to U.S. actions in violation of U.S. law.
- c. The discretion, lodged in appropriate officials, to classify or exempt from classification all other information on the basis of specified criteria which balance the need for secrecy against the potential value of disclosure.
- d. A comprehensive system of automatic downgrading and declassification.
- e. The application of specified sanctions to persons violating the terms of the system, including criminal penalties for the unauthorized release of properly classified information, and significant administrative sanctions applicable to over-classification.
- f. The availability of legal process to resolve any questions arising from classification decisions.

I concur with this recommendation which, in proposing mandatory classification for information relating principally to sources and methods of intelligence,* would reinforce my existing statutory responsibility as set forth in the National Security Act of 1947, to protect intelligence sources and methods from unauthorized disclosure.

However, the downgrading and declassification of information which is "born classified" by statute, should be determined by the Federal officer responsible for implementing the mandatory statutory classification and not by an automatic downgrading and declassification system.

The application of criminal penalties to the unauthorized release of such information is strongly endorsed. However, the legal process applied to resolving questions about such statutory classification should provide for an in camera court review whether the classification was a reasonable act, i.e., not arbitrary or capricious. This would ensure that the responsibility lodged by statute for determining classification in the first instance is not transferred to the Judiciary.

* I recommend that the phrase "sources and methods of intelligence" as used by the Commission be defined as follows:

"Intelligence sources and methods means sensitive information concerning:

- a. Methods of collecting foreign intelligence;
- b. Sources of foreign intelligence, whether human, technical or other; or
- c. Methods and techniques of analysis and evaluation of foreign intelligence which, in the interests of the security of the foreign intelligence activities of the United States, have been specifically designated for limited or restricted dissemination or distribution, pursuant to authority granted by law or Directive of the National Security Council, by a department or agency of the United States Government which is expressly authorized by law or by the President to engage in intelligence activities for the United States."

RECOMMENDATION (180)

In the Commission's view, a Joint Committee on National Security should be established. It should perform for the Congress the kinds of policy review and coordination now performed in the executive branch by the National Security Council, and provide a central point of linkage to the President and to the officials at that Council. In addition it should take responsibility for Congressional oversight of the Intelligence Community.

The manner in which Congress organizes itself to conduct congressional oversight of the Intelligence Community is essentially a matter for the Congress to decide. However, I am concerned over the proliferation of access to sensitive intelligence information. The Commission, by stipulating that the proposed joint committee would not substitute for the regular legislative and investigative functions of the present standing committees in each House, would add an additional committee without resolving the issue which concerns me--to reverse the present trend toward increasing proliferation of access to sensitive information. In my view, the need is to establish a single small select joint committee with a clearly defined role to include a review of covert action programs and with exclusive authority of access to sensitive information involving the sources and methods of intelligence. It would seem appropriate that oversight of Agency management, functions and operations be limited to such a committee and to such appropriations subcommittees as may be necessary to consider and oversee the Agency's budget.

RECOMMENDATION (181)

The Commission recommends that the Joint Committee be vested with the following specific jurisdictions and authorities:

- a. Receipt, analysis and referral (along with any recommendations it may consider appropriate) of reports from the President under the War Powers Act.
- b. Receipt and review of analytic products of the intelligence community.
- c. Oversight (in conjunction with the executive branch) of the system of information classification discussed above.
- d. Establishment and maintenance of facilities and procedures for storage and handling of classified information and materials supplied to the Congress.
- e. Establishment of a code of conduct to govern the handling by Committee members of classified or sensitive information.

Parts a and c are outside of my purview. I concur in parts b, d and e.

RECOMMENDATION (182)

We propose that the Joint Committee:

- a. Consider the creation of a statutory system of information classification, and (if intelligence oversight is assigned to it),
- b. Be granted authority for annual authorization of funds for the intelligence community.

My comments on Recommendation (173) apply to part a. above.

In the past I have taken the position that questions such as those raised in this recommendation should be resolved by the Congress, but I cannot in good conscience concur in the recommendation of part b. above.

The recommendation contemplates an annual authorization to appropriate funds for the activities of CIA, a requirement which does not exist under current law (Central Intelligence Agency Act of 1949). Such a new annual authorization requirement would carry with it the same security problems as an open budget for the CIA.

I firmly believe that the CIA budget and certain classified intelligence programs of the Department of Defense should remain fully classified and non-identifiable. The present system of review of the Intelligence Community budget requires hearings before oversight committees to explain the budget, a procedure I support. The proposal would add the requirement of moving an authorization bill through the entire legislative process. Resulting public disclosure could provide potential enemies with considerable insight into the nature and extent of our activities. Even a one-line item figure in an authorization bill, without further revelation, could result in questions and discussions of changes or trends developed in succeeding year figures and generate a demand for explanations eroding necessary secrecy.

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